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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/076,589	02/19/2002	Tetsuya Fukunaga	09/555527US1	2701

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CHEVRON PHILLIPS CHEMICAL COMPANY
5700 GRANITE PARKWAY, SUITE 330
PLANO, TX 75024-6616

EXAMINER	
ILDEBRANDO, CHRISTINA A	

ART UNIT	PAPER NUMBER
1725	

DATE MAILED: 02/17/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	10/076,589	FUKUNAGA, TETSUYA
	Examiner	Art Unit
	Christina Ildebrando	1725

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *12 November 2003*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1 and 3-8* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1 and 3-8* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☒ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☒ Certified copies of the priority documents have been received in Application No. 09/555,527.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date *111203*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Information Disclosure Statement

1. The Information Disclosure Statement filed November 12, 2003 is noted by the Examiner. The Search Report has been considered. However, Applicant is advised that the references included therein have not been considered and will not print on any patent issued from this application unless applicant cites these references on a PTO-1449 and provides copies of those references where applicable.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1, 3-4, and 7-8 are rejected under 35 U.S.C. 102(e) as being anticipated by Fukunaga et al.

Fukunaga et al. (US 6,096,936) discloses a process for preparing a reforming catalyst comprising impregnating an L-type zeolite with a platinum-containing compound and one or more halogen containing compounds and then calcining the zeolite (column 2, lines 45-51). The reference further teaches that prior to calcination, a drying

treatment is carried out (column 4, lines 58-60). The drying treatment is conducted under reduced pressure or atmospheric pressure in a moving state, such as by vacuum rotary drying (column 4, lines 58-68). It is the position of the examiner that the motion of the rotary drier would give to the catalyst particles a shaking force that would permit the catalyst particles to contact other catalyst particles at any time, as required by claim 8. Refer also to Example 1 (column 6).

As each and every element of the claimed invention is taught in the prior art as recited above, the claims are anticipated by Fukunaga et al.

4. Claims 1, 3-4, and 7-8 are rejected under 35 U.S.C. 102(e) as being anticipated by Holtermann et al.

Holtermann et al. (US 6,207,042) discloses a process for preparing a reforming catalyst comprising impregnating an L-type zeolite with platinum and halogen compounds, followed by vacuum drying in a rotary evaporator and calcination (column 17, lines 40-55). It is the position of the examiner that the motion of the rotary evaporator would give to the catalyst particles a shaking force that would permit the catalyst particles to contact other catalyst particles at any time, as required by claim 8.

As each and every element of the claimed invention is taught in the prior art as recited above, the claims are anticipated by Holtermann et al.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

6. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Fukunaga et al. as applied above for claims 1, 3-4, and 7-8.

The teachings of Fukunaga et al. are as described above for claims 1, 3-4, and 7-8.

The difference between the reference and the claims is that Fukunaga et al. does not teach the revolution speed of the rotary drier, as required by claim 5. However, one of ordinary skill would appreciate that the rate of evaporation and drying would be proportional to the speed of the rotary drier and would therefore recognize the revolution speed to be a result effective variable. It would have been obvious to one having ordinary skill in the art at the time the invention was made to choose the instantly claimed ranges through process optimization, since it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art. See *In re Boesch*, 205 USPQ 215. In this case, one of ordinary skill would have been motivated to optimize the speed of the rotary drier taught by Fukunaga et al. in order to effectively dry the impregnated catalyst, as taught by the reference.

7. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Holtermann et al. as applied above for claims 1, 3-4, and 7-8.

The teachings of Holtermann et al. are as described above for claims 1, 3-4, and 7-8.

The difference between the reference and the claims is that Holtermann et al. does not teach the revolution speed of the rotary evaporator, as required by claim 5. However, one of ordinary skill would appreciate that the rate of evaporation and drying would be proportional to the speed of the rotary evaporator and would therefore recognize the revolution speed to be a result effective variable. It would have been obvious to one having ordinary skill in the art at the time the invention was made to choose the instantly claimed ranges through process optimization, since it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art. See *In re Boesch*, 205 USPQ 215. In this case, one of ordinary skill would have been motivated to optimize the speed of the rotary evaporator taught by Holtermann et al. in order to effectively dry the impregnated catalyst, as taught by the reference.

Response to Arguments

8. Applicant's arguments filed November 12, 2003 have been fully considered but they are not persuasive.

With respect to the rejections under 35 USC 102(e) over the Holtermann et al. and Fukunaga et al. references, applicant argues that these reference are not available as prior art as the instant application claims priority to a December 10, 1997 priority date. However, applicant cannot rely upon the foreign priority papers to overcome this rejection because a translation of said papers has not been made of record in

accordance with 37 CFR 1.55. See MPEP § 201.15. Therefore, the rejection is maintained.

The rejections over the Chang et al. and Matusz references are withdrawn in light of applicant's amendments to claim 1.

Conclusion

9. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christina Ildebrando whose telephone number is (571) 272-1176. The examiner can normally be reached on Monday-Friday, 7:30-5, with Alternate Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tom Dunn can be reached on (571) 272-1171. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

CAI
February 9, 2004

Kiley Stoner AU 1725
Kiley Stoner 2/9/04